

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA; THE  
STATE OF MICHIGAN; THE STATE OF  
CALIFORNIA; THE STATE OF  
COLORADO; THE STATE OF  
GEORGIA; THE STATE OF INDIANA;  
THE STATE OF LOUISIANA; THE  
STATE OF MASSACHUSETTS; THE  
STATE OF MINNESOTA; THE STATE  
OF MISSOURI; THE STATE OF  
NEVADA; THE STATE OF NEW  
MEXICO; THE STATE OF NEW YORK;  
THE STATE OF OKLAHOMA; THE  
STATE OF TENNESSEE; THE STATE  
OF TEXAS; THE STATE OF VIRGINIA;  
and THE STATE OF WASHINGTON,

Civil Case No. 2:21-cv-10560

Honorable Sean F. Cox  
Mag. Judge David R. Grand

**FILED IN CAMERA AND**  
**UNDER SEAL**

Plaintiffs,

*ex rel.* DR. SARAH RILEY,

Plaintiff/Relator,

vs.

AVERTEST, LLC d/b/a Averhealth, a  
Virginia limited liability company,

Defendant.

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**UNITED STATES' NOTICE OF ELECTION TO INTERVENE IN PART**  
**AND DECLINE IN PART FOR SETTLEMENT PURPOSES; PLAINTIFF**  
**STATES NOTICE OF ELECTION TO DECLINE**

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4), the United States hereby notifies the Court of its decision to intervene in part of this action and to decline to intervene in part of this action for settlement purposes. The United States intervenes as to the part of the action in which Relator alleges that, from May 15, 2019 through November 30, 2020, Defendant Avertest, LLC violated the False Claims Act, 31 U.S.C. §§ 3729–33, when it knowingly submitted, or caused the submission of, claims for payment to the Michigan Department of Health and Human Services, and knowingly made statements material to those claims, concerning positive drug test results for oral fluid samples that were not confirmed using a mass spectrometric method analytically different from the screening method, and did not conform to the terms of its contract with the Michigan Department of Health and Human Services. The United States declines intervention at this time as to all other claims alleged in the Relator's Complaint.

Further, pursuant to their respective False Claims Act statutes, the States of Michigan, California, Colorado, Georgia, Indiana, Louisiana, Minnesota, Missouri, Nevada, New Mexico, New York, Oklahoma, Tennessee, Texas, and Washington, and the Commonwealths of Massachusetts and Virginia (collectively, the "Plaintiff States"), by undersigned counsel from the State of Michigan, and with consent of the remaining Plaintiff States, hereby notify the Court of their decision to decline to intervene.

Consistent with the parties' agreement, the United States, Relator, and the Plaintiff States will file a joint stipulation for dismissal of all of the Relator's claims against Defendant Avertest, LLC in this case.

Finally, the United States and Plaintiff States request that the Relator's Complaint, this Notice, and the accompanying proposed Order be unsealed. The United States and Plaintiff States request that all other papers on file in this action remain under seal because in discussing the content and extent of the United States' non-public investigation, including methods and thought processes for assessing Relator's allegations, these submissions were provided under § 3730(b)(3) to the Court, alone, for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended. *See id.* 3730(b)(2)-(3) (providing only for unsealing of the *in-camera* complaint).

A proposed order accompanies this Notice.

Respectfully submitted,

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Dated: June 4, 2024

**CERTIFICATE OF SERVICE**

I hereby certify that on June 4, 2024, I served Relator with copies of this Notice and the proposed order by electronic mail as follows:

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